UNITED NATIONS

ECONOMIC AND SOCIAL COUNCIL

E/C.10/SR.46
23 May 1978

ENGLISH
Original: FRENCH

PROVISIONAL: FOR PARTICIPANTS ONLY

COMMISSION ON TRANSNATIONAL CORPORATIONS

Fourth session

PROVISIONAL SUMMARY RECORD OF THE 46TH MEETING

held at the Hofburg Kongresszentrum, Vienna,
on Monday, 22 May 1978, at 4.25 p.m.

Chairman Mr. BRUCE (Canada)

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N.B. Participants wishing to have corrections to this provisional summary record incorporated in the final summary record of the meeting are requested to submit them in writing, preferably on a copy of the record itself, to the Secretary of the Commission, Room 2941, United Nations Secretariat, New York, by 23 June 1978.

78-56527
GE.78-86051

STUDIES ON THE EFFECTS OF THE OPERATIONS AND PRACTICES OF TRANSNATIONAL CORPORATIONS

(a) COMPREHENSIVE INTEGRATED STUDY ON TRANSNATIONAL CORPORATIONS

(b) IN-DEPTH STUDY ON THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS IN SOUTHERN AFRICA AND THEIR COLLABORATION WITH THE RACIST MINORITY REGIMES IN THAT AREA

(c) TOPICS FOR FUTURE RESEARCH (E/C.10/38, 39 and 40) (agenda item 7) (continued)

Mr. RUBIN (United States of America) asked the expert advisers what in their experience were the fields in which research by the Centre on Transnational Corporations would be most useful in strengthening the negotiating capacity of the developing countries.

Mr. BABAR ALI (Expert Adviser) said he thought it would be useful if the Centre were to study the matter of manufacturers' cartels, which were detrimental to developing countries. He cited the example of Japanese manufacturers who had agreed among themselves that only one firm out of all those contacted should make a tender to the country concerned.

Mr. IVANOV (Expert Adviser) said that the experience gained by the socialist countries in negotiations with transnational corporations might be useful to developing countries, and added that such corporations were supplying the Soviet Union with 60 per cent of all machinery imported from non-socialist countries. Since it was important to be well informed about transnational corporations in order to negotiate with them successfully, the Centre might gather all kinds of information on them, and on their resources, products, prices and mode of management, and even on the psychological traits of their directors. Within the Soviet Ministry of Foreign Trade was an institute engaged on collating such information for distribution to trade organizations, thereby contributing to the success of Soviet negotiations with the transnational corporations. It was also important to make a technical assessment of tenders offered by those corporations, because the comparison of such tenders with patents recently issued showed that in 15-20 per cent of the cases transnational corporations were offering outdated technology. It would also be rewarding to investigate the financial position of the transnational corporations with which negotiations were in progress in order not to incur additional expenditure caused by bad management. A country ought also to be familiar with the tax system applying to a particular corporation; sometimes, for example, the competent Soviet authorities helped transnational corporations to apply for tax concessions which would be reflected in the contract price.

It was primarily trading practices, however, which had caused most damage to Soviet interests over recent years and were liable to harm the interests of developing countries. That applied particularly to pricing agreements, to which the Soviet authorities had reacted by deciding that before signing a contract their trading organizations were required to have before them three tenders at three different prices. Soviet organizations generally managed to achieve a 30 per cent reduction in the prices set by monopoly firms before negotiations began, and when negotiating they took care to assess the price of every element of a transaction, thereby saving a considerable amount of money. Lastly, Soviet organizations preferred not to deal with cartels and their intermediaries, but instead to approach transnational corporations directly to prevent the Soviet market from being "given away" to a particular affiliate.

Mr. COUDSWAARD (Expert Adviser) said that in his experience developing countries ought to ask the Centre to study food and health problems. The Centre could inform those countries which transnational corporations were active in that field and what role they were playing, so that Governments would know which corporations could supply them with any particular product.

If it adopted the methods used by the Centre for industrial and sectoral analysis, a developing country could attempt on its own to overcome the obstacles it encountered by working out its own development plans, thereby gaining a clearer picture of its priorities and needs, after which it would be able to seek a suitable partner and secure better results in the negotiations.

Mr. KOJIMA (Expert Adviser) remarked that comparison of document E/C/10/38 with the one on the same subject prepared in 1973 showed a healthy change in the secretariat's attitude to transnational corporations. In the first study, the secretariat had assumed that transnational corporations were bad creatures and that their behaviour needed to be exposed and their activities controlled, whereas the later report stated that apart from the activities of the giant corporations mentioned in the 1973 report, new forms of direct foreign investment had appeared, namely, investments on a relatively modest scale, which were the kind most needed by the least advanced countries, and joint ventures and non-equity arrangements. In order to encourage such new forms of investment, however, it would be advisable to define their role; in his opinion they had a tutorial function, for they ensured the transfer of technology and new industries to developing countries. Once local firms acquired the requisite technical and managerial skills, they could do without their "tutor". The Centre should

therefore study the role to be played by foreign investment, which would affect the future of both transnational corporations and national firms. Lastly, he observed that Japanese firms preferred joint ventures or non-equity arrangements, whereas other firms, particularly United States ones, still aimed at a 100 per cent control over their subsidiaries abroad.

Mr. PAUL (Expert Adviser) said he thought that research should concentrate on experience from which countries could derive mutual benefit. Firstly, it was important that research should reveal the impact made by transnational corporations in each particular country, and the Centre could encourage and help organizations to undertake such work. He had in mind the partial studies carried out in India on the direct or indirect influence exerted by transnational corporations on the economy, as seen from the balance-of-payments and technology angle. Such studies could cause the country concerned to change its policy and improve the regulations applying to transnational corporations. Secondly, an attempt could be made to compare the negotiating experience gained by the socialist countries and the most advanced developing countries. Thirdly, research was needed on information systems and methods devised in various countries for controlling the activities of transnational corporations. Fourthly, it would be valuable to study the experience acquired by countries in absorbing the technology offered by such corporations. Lastly, the Centre should study the negative and positive aspects of change in the activities of transnational corporations, a task entrusted in India to a commission on monopoly and restrictive practices, and compare information on the situation in various countries. The Centre should undertake or assist that type of research.

Mr. AKUNU (Expert Adviser) referring to the remark by the representative of Japan, said that while he did not wish to pass judgement on the transnational corporations he felt bound to point out that the very existence of the Centre and the purpose of the Commission's work proved that those corporations were not totally above reproach. Their activities created many difficulties when it came to price-fixing, taxation and the transfer of technology, especially on the African continent, which was the least developed. Moreover, they were very reluctant to recognize trade unions, and in their pursuit of profit they did not give priority to the creation of jobs.

The question of information was perhaps the most important facing the developing countries. Governments were sometimes ill-informed by the transnational corporations themselves, and the Centre therefore had a crucial role to play in that connexion; it could increase their negotiating capacity by telling them what had been done in other countries. The Centre should not delegate that information function to another body, whether an institution, country, or national or regional research centre, for such centres were sometimes financed by transnational corporations and consequently under their influence.

Mrs. JAGER (Expert Adviser) said that no one had all the answers to the problems raised by development, for it was an extremely complex process. Mr. Akumu had raised the matter of the recognition of trade unions, which was another problem for Governments. For several years, labour unions in the United States had been publishing studies on the impact of employment in developed and developing countries, from which it appeared that a movement of jobs was taking place, not only from the developed to developing countries, but between developing countries as well.

When collecting data, care must be taken not to substitute ideology for research, and not to compile statistics on employment, balance of payments and trade when the data were not comparable. In that connexion the Centre would have to reconsider its methodology. Certain definitions, too, needed clarification, particularly so far as concerned monopolies, market-sharing and cartels; and a comparison should also be made between private and State monopolies. Developing countries required clear information. As Mr. Paul had pointed out, what was also needed at the present stage was not so much academic studies as a practical assessment of reality, taking the cultural diversity of the developing countries into account. No abstract or ideal rules existed for negotiations, and efficiency could only come through experience, trial and error.

Mr. TACKE (Expert Adviser) said that in his opinion priority should be given to a study of how and when transnational corporations could begin to contribute, or contribute more fully, to meeting the basic needs of the least developed countries.

The CHAIRMAN said that the Commission had concluded the discussion of agenda item 7 (c).

In accordance with the rules of procedure, he proposed that the deadline for the submission of proposals under all items should be 6 p.m. on Wednesday, 24 May.

It was so decided.

COMPREHENSIVE INFORMATION SYSTEM (agenda item 9)

(a) PROGRESS REPORT ON THE ESTABLISHMENT OF A COMPREHENSIVE INFORMATION SYSTEM (E/C.10/41)

Mr. SAHLGREN (Executive Director, Centre on Transnational Corporations) introduced the report entitled "Development of a comprehensive information system on transnational corporations" (E/C.10/41) and recalled the general objectives of the programme of work approved by the Commission, of which the comprehensive information system had to be seen as a part: to further understanding of the nature and effects of transnational corporations; to secure international arrangements designed to promote the contribution of the transnational corporations to national development goals and world economic growth; and to strengthen the negotiating capacity of host countries. Also, the comprehensive information system should be seen in relation to other activities, including those discussed under agenda items 7 (c) and 9 (b), and to several of the 13 points mentioned in paragraph 23 (b) of the Commission's report on its second session.

Document E/C.10/41 brought into sharper focus the five areas of information that had been identified at the third session, in the light of the views expressed by representatives of Governments in discussions at the Centre and during missions to various capitals. The Centre had endeavoured to decide how best to use its limited resources for collecting information of the most practical benefit to Governments, bearing in mind general objectives.

After enumerating the main sections of the report, he proceeded to describe the specific content of the proposed information system. Firstly, it would provide information on legal enactments and policy pronouncements made by both home and host Governments at the national and international level, so that host Governments could benefit from the experience of other host Governments and assess the implications of policies and regulations introduced by home Governments.

Secondly, it was essential to acquire up-to-date knowledge of the industries of special importance to developing countries and of the role of transnational corporations in those industries. The analysis would deal with such aspects as the industry structure, participation in the industry of transnational corporations, the trends in such involvement, market concentration, competitive structure, investment and technological practices and relevant policies and regulations of home and host Governments, using studies made by other organizations as the foundation for the exercise. Thirdly, an analysis

would be made of global trends in the activities of transnational corporations, including technology flows and the effect on balance of payments, domestic technology development, and so on.

Fourthly, at the micro level, it was proposed to collect information on individual transnational corporations in the form of (i) information incorporating certain basic data, as set out in paragraph 65 of document E/C.10/41, and (ii) in-depth information containing more details of a quantitative and non-quantitative nature on a number of corporations to be identified in the context of the aforementioned industry analyses. The precise set of variables in the in-depth information would vary according to the characteristics of each industry. The in-depth information would bear particularly on the financial capability of transnational corporations, their standing and performance, foreign experience, and the nature of and trends in their participation, together with non-quantitative information on the operation of individual corporations. The Centre would also expand its collection of contracts and agreements between transnational corporations and host Governments or entities.

Since an important part of its information function would be to make use of other sources, the Centre would expand and update its survey of existing sources on a world-wide basis, including other public or private agencies, various data banks, and institutions and individuals undertaking research on transnational corporations. The comprehensive information system would be established in close co-operation with other United Nations organizations, such as UNIDO and UNCTAD, and with the joint units. Every effort would be made to avoid duplication.

Part IV of the document described the progress made in developing the Centre's computerized system, the object of which was to store either information or references available in manual form. Initial efforts had focused on information relating to individual transnational corporations, and during the coming year information would be stored on laws and regulations and on contracts and agreements.

As to the dissemination of information, paragraphs 92 and 93 identified a number of publications through which information could be distributed on a periodic basis, and those publications would be supplemented by other Centre studies, those on matters discussed under item 7(c), as well as studies relating to some of the 15 points mentioned in paragraph 23 of the Commission's report on its second session. The Centre's Technical Co-operation Programme constituted the second crucial means of disseminating information.

It was important that the Centre should receive co-operation from various information sources, particularly Governments and the corporations themselves, which would be asked to supply part of the in-depth information on their activities. In collecting and disseminating information, the Centre would naturally take into account the constraints in respect of confidentiality and verification of reliability referred to in paragraphs 20-25 of document E/C.10/41.

The Centre proposed to proceed with its work on the comprehensive information system within the limits of the resources available to it for the biennium 1978-79. At the beginning of 1979 he would make specific proposals for the biennium 1980-81 on the basis of experience, and would endeavour to submit the relevant segment of the Secretary-General's proposed programme budget for that period to the Commission at its fifth session. That would enable the Commission to transmit its views to the Economic and Social Council and the General Assembly.

He looked forward to the discussion on the item, and to receiving further guidelines from the Commission, and commended the proposals contained in document E/C.10/41 to the Commission for its consideration, so that a comprehensive information system could be developed as quickly as possible.

Mr. BAUER (United Nations Industrial Development Organization) said that, having heard the Executive Director stress the importance of co-operation between the Centre and UNIDO, he thought he should give some further particulars of UNIDO's activities in the sphere of information. During the past year, UNIDO had increased its co-operation with the Centre and had participated in a number of workshops designed to strengthen the capacity of the developing countries in the negotiation of contracts for the transfer of technology. The development of a complementary information system had been the subject of continuous consultations between UNIDO and the Centre. UNIDO had indicated its willingness to supplement the work of the Centre through the operation of the Industrial Information Bank established in 1977 by a decision of the General Assembly. UNIDO had begun to compile information on technological options in sectors such as iron and steel, fertilizers, agricultural machinery and implements and the food industries. The results of its work were soon published in the development and transfer of technology series. They would be available to the Centre on Transnational Corporations.

UNIDO had also initiated a programme of industry studies to examine the manner and method, in concrete cases, of acquiring, assimilating and adapting technologies. Those studies would shed light on the problems that Governments and enterprises

faced in the process of selecting, adapting and introducing technologies geared to the development of technical capabilities in given industrial sectors. UNIDO had also initiated as part of the industrial and technological information bank an information system which was known under developing countries as the IIBK system (technology information system). Within the resources available to it, UNIDO would be willing to co-operate fully with the work of the Centre on Transnational Corporations.

Mr. BINAYA (India), speaking then, on behalf of the Group of 77, he would like to suggest that the statement by the Executive Director which supplemented the report of the Secretariat (E/C.10/31) should be issued as an official document, so that the Commission could take it into account when formulating its recommendations. He did not agree with some of the observations and formulations contained in the Secretariat's report, towards which, however, he intended to take a constructive approach.

The first objective of the work programme drawn up by the Commission was "to further understanding of the nature and effects of the activities of transnational corporations in home and host countries, and in international relations". The crucial words were "the nature and effects of the activities of transnational corporations", because unless the Commission had the relevant information, it could not clearly perceive the effects in question.

The second objective was "to secure effective international arrangements for the operation of transnational corporations to promote their contribution to national development goals, while controlling and eliminating their negative effects". What objective related specifically to controlling and regulating the operations of transnational corporations so as to make their activities conform to national development goals and eliminate their negative effects. Those two primary objectives had been laid down by the Commission because some of the activities of transnational corporations had caused concern among the host and home countries, and knowledge of the nature and extent of the effects of their operations would make it possible to devise regulatory mechanisms.

The third objective was "to strengthen the negotiating capacity of host countries". It related both to regulation of the activities of existing transnational corporations and to the fresh entry of transnational corporations in host countries.

At the Commission's third session, the Centre had submitted two reports, one of which, entitled "Feasibility study on availability of information" (E/C.10/27), was to be considered further at the current session. The Centre was also to report on the experience gained in that connexion as well as on the progress made in establishing a comprehensive information system.

The concerns which the information system should meet were undoubtedly those which the various delegations had expressed and which constituted the basis for the formulation of a code of conduct. The Intergovernmental Working Group had now identified the principles and issues relating to the operations and activities of the transnational corporations, and it was evident that those purposes themselves indicated the areas in which information was required. They also indicated the type of information which Governments and the public would like to have. In paragraph 23 A and B of the report on its second session, the Commission had laid down guidelines for the use of the Centre in collecting information. They related to the development of an information classification system which should take account of the concerns of Governments, and to the collection of information of a general or specific nature on 13 subjects. He would therefore like to emphasize that the guidelines appearing in paragraphs 8 and 9 of the Secretariat's report should make reference to the concerns and to the principles and issues currently under discussion by the International Working Group on a Code of Conduct. The information should be selective in the sense that it should relate to the needs of host countries; and those were, of course, the "concerns" embodied in the principles and issues relating to the activities of transnational corporations.

The main headings under which the information system was to be structured appeared in paragraph 17 of the report of the Commission on its third session. He fully supported the conclusions and recommendations contained in paragraphs 70 to 72 of the "Feasibility study on availability of information" (E/C.10/27), and the guidelines and procedures given in paragraphs 65 to 70.

As was mentioned in paragraph 10 of the document on the "Development of an Information System" (E/C.10/28), the information collected at the enterprise level was "the heart of the information system". There was a need for information at both the enterprise and the company level. There were problems of the confidentiality and reliability of information. In case of any verification of information with the corporation concerned, the independence and integrity

of the Centre should be fully protected. The Centre should preserve the confidentiality of certain information if a Government or corporation wished it to remain confidential. He would like to have the data which the Centre had collected on 100 major transnational corporations, and he would like to see more studies on individual corporations: they would highlight the operations and activities of transnational corporations and provide information which would be useful for identifying the characteristics of transnational corporations for purposes of definition.

Information at the macro level presented four difficulties in regard to availability and comparability. It had been proposed that the Centre should prepare industry analyses (para. 12). He was not convinced of the utility of analyses of that kind. For major sectors like oil, non-ferrous metals, steel, petrochemicals, electronics, etc., a wealth of information was available in various publications. He did not believe that the Centre should undertake that kind of task, which would be very expensive. What was wanted at the macro level was information on trends in ownership, transfer-pricing, restrictive trade practices, exports, transfer of technology, investment, balance of payments, etc., which was useful for Governments for purposes of regulation.

Paragraph 29 B and C of document E/5738 did not refer to industry analyses, but to in-depth studies as part of research on the social and economic effects of the practices of transnational corporations. The research studies had a definite objective, which was to determine whether the objective was fulfilled or not, while industry analyses produced diffuse information which might or might not be useful. His delegation therefore urged that the Centre should organize in-depth studies and case-studies as part of its research programme and not as part of its information system.

There was no doubt that the Centre should seek to obtain the full co-operation of the various information sources, including home and host Governments and the corporations themselves. It should also establish co-operation with national information systems and non-governmental and intergovernmental organizations, including trade and industry associations and trade unions. When collecting information, the Centre could delegate a good part of its work to the joint units in the regional commissions. The main aim should be to collect information which would fulfil the objectives set by the Commission.

As to contracts, agreements, laws, regulations and policies relating to transnational corporations, he was in agreement with the suggestions appearing in the report by the Secretariat. Lastly, if the Centre was to work at full potential, increased resources would have to be allocated to it for the 1980-1983 period.

Mrs. ARIGA (Japan) congratulated the Executive Director of the Centre and his collaborators on responding with a concise report to the requests made by the Commission at its third session. The Centre had dealt with paragraphs 22 and 23 on confidential information with particular care. A number of delegations had expressed misgivings regarding the way in which such information should be treated. For that reason, her delegation noted with satisfaction that "it would not be proper for the Centre to include in its information system information which the source wishes to keep confidential" (para. 22). The contents of paragraph 23 were also highly relevant in that connexion.

Her delegation again noted with satisfaction that "Governments would be notified by the Centre of the invitations addressed to corporations based in their countries" (para. 25). Governments were indeed interested in many aspects of the activities of private companies, and such an approach would unquestionably help to create good relations of co-operation between all parties involved in an information system.

Comparability and compatibility of data originating from different sources was one of the most complicated problems posed by the development of a comprehensive information system on transnational corporations. Like the authors of the report, her delegation had no concrete solution to offer. It wished, however, to state that the Commission and the Centre should continue to give attention to that problem with a view to creating a reliable information system.

With reference to the resources available to the Centre to develop an information system, the authors of the report rightly commented (paras. 5 and 7) that a balance had to be struck between the desirable and the feasible, and that it was necessary to identify the most efficient and effective use of the limited resources available to the Centre. It should not be forgotten that the information system was only one of the elements in the Centre's work programme. At the thirty-second session of the General Assembly, the representative of Japan had stressed in the

Fifth Committee that, in its information activities, the Centre should apply the criteria of practicality and utility in deciding what information to collect, that those activities should not be on such a scale as to constitute an excessive burden on the parties concerned, and that duplication should be avoided. Her delegation hoped that in that sphere, the Centre would not formulate or execute its policies without continuing to give the greatest attention to questions of feasibility and use. The report conveyed the impression that a study was needed to ascertain the extent to which the activities of the Centre in that area would meet the needs of receiver countries, and to consider those activities from the cost/benefit viewpoint, taking into account the statements made by the expert advisers at the current and previous sessions of the Commission. What was meant by the term "needs" must also be specified. Lastly, to ensure the effectiveness of the work undertaken and avoid unnecessary complication, the number of multinational corporations on which general or in-depth information was gathered should be kept to a minimum.

The meeting rose at 5.55 p.m.